

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VICTOR TORRES TRINIDAD,

Civil Action No. :
7:17-cv-01986 (VB) (JCM)

Plaintiff,

**PROPOSED
JUDGMENT**

v.

CAP 111 ENTERPRISES, LLC, d/b/a ARMONK
HOUSE, and CONNIE PETROVICH,

Defendants.
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Whereas Plaintiff's Complaint was filed on March 20, 2017 (Document 1), to recover unpaid minimum wage and overtime wages from the named Defendants under the Fair Labor Standards Act (FLSA) and New York State's Labor Law (NYLL).

Whereas the parties settled this case on July 18, 2017 and then executed and filed the Settlement Agreement & Release on August 16, 2017 (Document 23).

Whereas on August 18, 2017, this Court issued an Order Approving Settlement and Dismissing Case in this case (Document 26) with this Court retaining jurisdiction over this case for the sole purpose of enforcing the settlement agreement in the event of a breach thereof.

Whereas the settlement payments were originally scheduled to be made on September 16, 2017 (Document 23).

Whereas the settlement payments were not made on September 16, 2017 (Document 27).

Whereas defendants failed to make the settlement payments within 5 business days of September 16, 2017 to avoid the penalty prescribed in the settlement agreement (Document 27).

Whereas under the terms of the Settlement Agreement, on October 3, 2017, plaintiff's counsel served Notice of Default upon defense counsel when the settlement payments were not received within ten (10) business days after September 16, 2017 and giving defendants five (5)

additional business days to cure their default or Plaintiff would be entitled to entry of a final judgment for full liquidated damages pled in Plaintiff's Complaint, including up-to-date attorneys' fees and costs of the lawsuit, less any payments made pursuant to the Agreement, to be executed forthwith upon the filing of an affidavit of non-payment. (Document 27, 27-1 and 27-2).

Whereas defendants continued to fail to pay the settlement. (Document 27, 27-1 and 27-2).

Whereas this Court Ordered defense counsel to respond to Plaintiffs' request to enforce the settlement and to issue a final judgment. (Document 28).

Whereas following defense counsel's response (Document 29), this Court asked for a further update from defense counsel by October 30, 2017 (Document 30).

Whereas following defense counsel's response (Document 31), this Court granted defendants application for an additional 30 days to December 1, 2017 for defendants to cure their default and that no further extensions would be granted (Document 32).

Whereas defendants failed to cure their default by December 1, 2017. (Document 33).

Whereas this Court granted plaintiff's application for judgment for defendants failure to cure the default and directed plaintiff's counsel to submit a proposed judgment in accordance with Local Civil Rule; it is hereby

ORDERED, ADJUDGED AND DECREED that, for the defendants' failure to cure their default as set forth in the settlement agreement (Document 23) and in subsequently failing to cure their default by the extensions granted by this Court (Documents 28, 30 and 32), judgment is hereby entered in favor of Plaintiff VICTOR TORRES TRINIDAD and against Defendants CAP 111 ENTERPRISES, LLC, d/b/a ARMONK HOUSE, and CONNIE PETROVICH in the amount of \$85,275.75.

The Clerk is instructed to close this case.

Dated: White Plains, New York
December __, 2017

SO ORDERED:

Vincent L. Briccetti
United States District Judge